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C O N F I D E N T I A L SECTION 01 OF 03 NAIROBI 001439

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SUBJECT: CORRUPTION IN KENYA: PARLIAMENTARY REPORT BLOWS  
THE LID ON ANGLO-LEASING

Ref: A. Nairobi 944, B. Nairobi 661, C. Nairobi 607, D.  
Nairobi 527, E. Nairobi 494, F. Nairobi 395, G. Nairobi 284

Classified by Econ Counselor John Hoover for reasons 1.4  
(B) and (D).

¶1. (C) Summary: Like a second nuclear strike following the release of the Githongo dossier in January, a long-awaited report into the Anglo-Leasing and related scandals by Kenya's Parliament was released on March 30 and is sending shockwaves through Kenyan politics. The report from the Parliament's Public Affairs Committee builds on and augments Githongo's evidence and paints a damning portrait of high-level corruption and cover-up in the administration of President Mwai Kibaki. The report explicitly states that Kibaki himself was fully briefed from the beginning on the Anglo-Leasing scandals and on who was behind them. How the embattled administration will react in the current polarized political environment remains to be seen, but we are unlikely to see any dramatic actions to demonstrate renewed political will or accountability. End summary.

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Reviewing What "Anglo Leasing" Means  
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¶2. (SBU) On March 30, Kenya's Parliamentary Public Accounts Committee (PAC), the legislature's primary oversight body, accepted for debate and released the much-anticipated results of its investigation into the Anglo-Leasing scandals. Although laboriously titled "Report on Special Audit on Procurement of Passport Issuing Equipment by the Department the Immigration, Office of the Vice President and Ministry of Home Affairs," the 68-page document provides a useful reminder to all readers, including Washington consumers, of exactly what "Anglo-Leasing" refers to. In its original and simplest form, it refers to two large-scale procurement scams, one worth \$54.6 million to procure turnkey construction of a police forensics lab, and the second worth around \$36 million for procurement of a new secure passport issuing system. Both contracts were with a non-existent UK finance company, Anglo Leasing and Finance Ltd.

¶3. (SBU) But "Anglo-Leasing" has come to be short-hand for a series of security-related procurement scams that followed much the same pattern and involved the same loose and shadowy network of GOK officials and private businessmen described in greater detail ref A. (Note: Ref A

requests visa revocations against four members of this network; that request remain pending in Washington. End note). The PAC report therefore reminds us that "Anglo-Leasing" is much more than one or two isolated scandals, but rather a large and sticky web of high-level, grand-scale corruption. To wit, the PAC report notes that:

-- 18 separate contracts of the Anglo-Leasing nature worth \$730 million were signed by the Moi and Kibaki Governments between 1997 and 2003.

-- A total of \$240 million was paid out under these contracts through May 2005. A total of around \$12 million has been mysteriously returned to the government on three of the 18 projects after their exposure in mid-2004.

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A Win for Parliamentary Oversight and Transparency  
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¶4. (SBU) Initially, even getting the PAC report tabled in Parliament appeared problematic. Predictably, the government on March 28 tried to block it from being introduced. But in a clear win for Parliamentary independence, House Speaker Francis ole Kaparo rejected the government's arcane legal arguments and ruled March 30 that the report be tabled for debate in light of the "immense public interest." The following day, the full report was available, and the media did its part by publishing condensed versions and excerpts in all major papers on March 31. Post has e-mailed the full report to AF/E and INL/C/CP. A useful condensed version is available at:

<http://nationmedia.com/dailynation/downloads/PAC->

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Report.pdf.

¶5. (SBU) The PAC report lays out in even greater and more stunning detail the connections between the Anglo-Leasing and similar deals and the senior-most members of the Kibaki administration. Its evidence relies heavily, but far from exclusively, on the Githongo dossier (ref G), drawing also from government documents and from testimony obtained from 18 witnesses who appeared at 22 "sittings" before the PAC. The report paints a compelling narrative of corruption and cover-up in the 18 Anglo-Leasing-style procurement scams, complete with charts and graphics that identify a series of non-existent finance companies and the individuals behind them. At the same time, it carefully talks of "possible inter-relatedness" between specific individuals and tainted deals so as not to categorically pass judgment and lay the PAC open to charges of slander. As such, it doesn't quite connect the dots, but it lays them all out so that the reader is left with little doubt about where the evidence points.

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Naming Names and Drawing Conclusions  
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¶6. (SBU) The PAC report nonetheless discusses and passes judgment of a sort on a number of individuals and organs of the Kenyan government. In a section entitled "Political Culpability," it makes the self-evident point that the Vice President and the ministers involved were "constitutionally responsible for the actions under their control," and that they "did not exercise due care and diligence in undertaking those responsibilities." The report rejects claims from Vice President and Home Affairs Minister Moody Awori and other ministers that they were unaware of the corrupt deals being hatched within their ministries, noting that the evidence clearly shows they were well-briefed at all times regarding the suspect transactions. The report has the following to say about some of the key players in the Anglo-Leasing drama:

-- Ex-Minister of Finance David Mwiraria: "The Ministry abdicated its...role...in as far as securing external loans." Mwiraria "displayed a most cavalier attitude" and "was either outrightly incompetent...or deliberately remiss in giving the Anglo-Leasing principals an advantage."

-- Ex-Justice Minister Kiraitu Murungi: "There is credible evidence that Hon. Murungi MP gave protection to Anglo-Leasing principals...the principals behind Anglo-Leasing were probably a front for persons within President Kibaki's administration."

-- Head of Civil Service Francis Muthaura: Muthaura "misled the public that there had been no wrongdoing..." and on related matters "...either deliberately misled the Committee or is incompetent in his duties."

-- The Kenya Anti-Corruption Commission: The KACC, under Justice Aaron Ringera only recommended prosecution of lower-level civil servants in the initial Anglo-Leasing investigations and appears to have closed off for itself other fruitful avenues of investigation. The PAC report concludes it "is not convinced about the ability of the KACC to prosecute the case given its selective exclusion of political figures."

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What About the President?  
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¶7. (C) Through a recital of facts, the Githongo dossier makes clear President Mwai Kibaki was fully briefed on the Anglo-Leasing and related scams, and therefore knew who in his administration was behind them. But it never says so directly. The PAC report is more explicit:

-- "...it would be difficult to conclude that he (Githongo) did not brief the President on the Anglo-Leasing contract."

-- "Even if it is accepted that Mr. Githongo never briefed the President, as may be claimed, other persons also testified that the President received appropriate

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briefings."

-- "The Committee believes the KACC reports were availed to the President and especially that his Governance and Ethic Permanent Secretary dealing with corruption issues kept him fully informed."

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PAC Report Recommendations  
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¶8. (SBU) The PAC report makes 16 recommendations, key among them:

-- Prosecution of "persons involved in negotiations and approval of the passport issuing equipment project."

-- Termination or resolution by the Attorney General of the 18 frozen security-related contracts.

-- Tabling in Parliament of the audits of the 18 projects.

-- Presidential authorization for government to release additional information to the PAC to allow it to further investigate the 18 projects.

-- A series of procedural and institutional measures to increase the oversight authority of Parliament with regard to procurement and foreign borrowing.

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Comment, Part I: Is It All Politics?  
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¶9. (C) Without doubt, key PAC members had a strong political incentive to draft a hard-hitting and well-organized report. By statute, the PAC Chairman is a member of the political opposition, in this case Uhuru Kenyatta, the articulate head of the opposition KANU party. The rest of the PAC consists of four other KANU members, with only two additional members affiliated with the ruling NARC government. GOK cries that the corruption allegations are politically motivated will thus always have a ring of truth. This should not, however, be allowed to detract much from the substantive contribution the PAC report is making in terms of greater transparency in the long war against corruption in Kenya. The report itself, and the fact that it was successfully tabled and then made available publicly is an important and positive step towards greater accountability and transparency. Kudos again to the media, and for once, to Parliament.

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Comment, Part II: What Next?  
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¶10. (C) After weeks of headlines about cocaine and mercenaries, the PAC report returns the Anglo-Leasing and related scandals to the spotlight, and lays bare the inadequacy thus far of the government's response to the now well-documented allegations of high level graft and cover-up. Thus, as the report is debated in Parliament in the coming days, the biggest question revolves around how the GOK will react. We hope we're wrong, but our best guess is that in the current polarized atmosphere, the GOK will publicly proclaim its intention to aggressively investigate and prosecute all graft, and then batten down the hatches and do whatever it can behind the scenes to divert further attention from the Anglo-Leasing issue. We do not expect any additional political accountability from Kibaki. The President, in fact, has yet to make a detailed and definitive statement on the Anglo-Leasing affair since the release of the Githongo dossier in January, and the situation is only more difficult now because the PAC report is even more explicit in revealing that Kibaki knew about Anglo-Leasing all along.  
Bellamy